REMARKS

Claims 1 through 21 are pending in this application. Claims 1, 7 and 19 are the independent claims. Claims 1, 3 through 5, 7 and 19 have been amended.

The Examiner has rejected claims 1 through 7 and 10 through 20 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 5,619,247 to Russo. The Examiner has rejected claims 9 and 21 under 35 U.S.C. 103(a) as being unpatentable over Russo. The Examiner has rejected claim 8 under 35 U.S.C. 103(a) as being unpatentable over Russo in further view of U.S. Patent No. 4,945,563 to Horton, et al.

REJECTIONS UNDER 35 U.S.C. § 102

The Examiner has rejected claims 1 through 7 and 10 through 20 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 5,619,247 to Russo. Applicants respectfully traverse the rejection.

Regarding claim 1, claim 1 recites:

> "A system comprising a receiver in communication with a source of broadcast content and coupled to a playback device, the receiver to control the use of received broadcast content through the playback device in accordance with control information embedded in the received broadcast content, said embedded control information defining an action to be taken pertaining to the received broadcast content."

Applicants respectfully reassert their previously submitted remarks and provide additional remarks to overcome the rejection.

Russo discloses a subscriber's stored program pay-per-play system having high capacity storage to record and playback programs. In the Russo system "several types of supplemental information are possible, including future schedule memory information, . . authorization keys and information relating to compression algorithms . . ." column 8, lines 58 through 64.) However, this supplemental information is only used to enable the use of the program information as specified

and/or enabled by the provider of the program information or as specified/programmed by the user. (See column 4, lines 50 through 64 and column 6, lines 9 through 24.) In contrast, claim 1 recites that the embedded control information actually defines an action to be taken pertaining to the received broadcast content in which the control information is embedded. (See specification page 8, lines 11 through 21.) Therefore, the Russo patent does not disclose or suggest sending control information embedded in the broadcast content where the "embedded control information defin[es] an action to be taken pertaining to said broadcast content," as recited in claim 1. Accordingly, the section 102 rejection of claim 1, and claims 2 through 6 that depend therefrom, is believed to be overcome.

> In response to Applicants' previously submitted Arguments, the Examiner asserts that:
>
> "The authorization key and compression information are control information defining actions to be taken pertaining to the broadcast content. The authorization key allows the broadcast data to be received, displayed and manipulated. Furthermore, the compression information tells the receiver the correct way to decompress the information so it can be displayed properly, which is an action performed directly to the broadcast data. Both the authorization key and compression algorithms directly perform actions or operations on the received data." (emphasis added by Applicants.) (See Office Action, page 2, paragraph 1.)

Applicants strongly disagree. Contrary to the Examiner's assertion, while an authorization key and compression information may be control information that specifies how to do something, they do **not** "defin[e] actions to be taken pertaining to the broadcast content," as recited in claim 1. Instead, as previously stated, Applicant reasserts that none of the supplemental information in the Russo patent actually defines which actions are to be taken with the broadcast content, but only, authorizes or enables actions to be taken. This is clearly shown by the Examiner's own assertions, for example, while the "authorization key allows the broadcast data to be received, displayed and manipulated" it does not define which of the receiving, displaying and/or manipulating are to occur. Likewise, as stated in Russo: "[t]he provider then broadcasts a code specifically addressed to the subscriber's decoder thereby unlocking these features, for example, providing the subscriber's site with a key capable of descrambling an encrypted program." (Emphasis added by Applicants.) (See column 6,

lines 12 through 15.) However, while the key may specify how to descramble the encrypted program, it does not define when the action is to be taken.

Although the Russo patent may disclose the "unlocking" of features that may be used, it does not disclose or suggest that the code defines which, if any, of these features are to be used. This can be analogized to a door key that, while it can unlock a house door to make it available to be used, the key does not define any actions to be taken to use the door. The same is true of the broadcast code in the Russo patent, since it merely "opens the door" to make the program information available for use, but does not define any "action to be taken pertaining to the received broadcast content," as recited in claim 1. Therefore, the Russo patent does not disclose or suggest "control information defining an action to be taken pertaining to the received broadcast content," as recited in claim 1.

Likewise, the broadcast code of the Russo patent is not sent "embedded in the broadcast content," as also recited in claim 1. Rather, the Russo patent sends the code separate from the broadcast content to enable subscribers to be able to subsequently access future broadcasts. (See column 6, lines 10 through 27.) Specifically, the "supplemental information" in the Russo patent is not "embedded in the broadcast content," as recited in claim 1, but is sent separately "in an unused portion of one or more channels or through the use of an unused channel in its entirety []." (Emphasis added by Applicants.) (See column 8, line 67 through column 9, line 2.) Therefore, the supplemental information is not "embedded in the broadcast content," as recited in claim 1.

Accordingly, the Examiner has failed to meet the burden of establishing a *prima facie* case of anticipation and the Section 102 rejection of claims 1, and claims 2 through 6 that depend therefrom, is believed to be overcome.

Regarding claims 7 and 19, they have each been amended similar to claim 1, and now both recite, *inter alia,*: "extracting control information embedded in the received broadcast content, said extracted control information defining an action to be taken pertaining to said broadcast content." Therefore, since the control information is received with and extracted from the received broadcast content for at least those reasons given above for claim 1 the Section 102 rejection of claims 7 and 19, and the claims that depend variously therefrom, is also believed to be overcome.

Accordingly, Applicant respectfully requests the Examiner issue a notice of allowance of claims 1 through 7 and 10 through 20.

REJECTIONS UNDER 35 U.S.C. § 103

The Examiner has rejected claims 9 and 21 under 35 U.S.C. § 103(a) as being unpatentable over Russo. The rejection is respectfully traversed.

The Examiner has rejected claim 8 under 35 U.S.C. 103(a) as being unpatentable over Russo in further view of U.S. Patent No. 4,945,563 to Horton, et al. The rejection is also respectfully traversed.

For at least those reasons stated above for claims 1 through 7, and 10 through 20, the Section 103 rejections of claims 8, 9 and 21 are believed to be overcome. In addition, the Horton et al. patent fails to make up for the deficiencies of the Russo patent admitted by the Examiner. The. Horton et al. patent pertains to a system and method for controlling the viewing and "useful" copying of encrypted programs, but does not "control[] the use of the received broadcast content" as in the presently claimed invention. Specifically, in the Horton et al. patent the "additional tag or code" (see column 2, lines 31 through 32) does not "control" the use of the broadcast content, since, a copy of the broadcast content can be made regardless of what the additional tag or code indicates. The only thing that the system in the Horton et al. patent affects is whether the copy that is made has "any entertainment or resale value" or is "copy protected" to prevent other copies of the copy protected copy from being made. (See column 2, lines 33 through 52.) In contrast, "controlling use of the received broadcast content in accordance with the extracted control information," as in the presently claimed invention, involves exactly that, controlling how the received broadcast content is and is not

used. Accordingly, claims 8, 9 and 21 are believed to be allowable and a notice to that effect is respectfully requested.

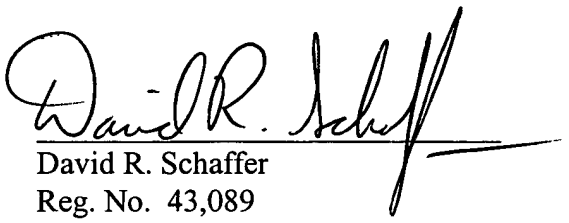
CONCLUSION

In view of the remarks submitted above, the Applicant respectfully submits that no new matter has been added and that the present case is in condition for allowance or, at least, in better form for appeal. Applications respectfully request that the Examiner admit the Response for consideration pursuant to 37 C.F.R. §1.116 and issue a notice of allowance.

The Commissioner is authorized to charge any other fees determined to be due under 37 C.F.R. § 1.16 or § 1.17 or credit any overpayment to Kenyon & Kenyon **Deposit Account No. 11-0600**.

The Examiner is invited to contact the undersigned at (202) 220-4263 to discuss any matter concerning this application.

Respectfully submitted,



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